

ELLIS:LAWHORNE

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November 12, 2004

VIA ELECTRONIC AND FIRST CLASS MAIL SERVICE

The Honorable George N. Dorn, Jr.
Interim Executive Director
South Carolina Public Service Commission
Post Office Drawer 11649
Columbia, South Carolina 29211

RE: Complaint of AT&T Communications of the Southern States,
LLC for Suspension and Cancellation of BellSouth Telecommunications,
Inc.'s CPN Tariff No. 2004-410, Filed October 13, 2004
Docket No. 2004-_____, Our File No. 611-10116

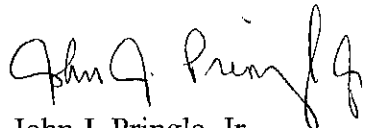
Dear Mr. Dorn:

Enclosed is the original and ten (10) copies of the **Complaint** filed on behalf
of AT&T Communications of the Southern States, LLC in the above-referenced matter.

Please acknowledge your receipt of this document by file-stamping the copy of
this letter enclosed, and returning it in the enclosed envelope.

If you have any questions or need additional information, please do not hesitate to
contact me.

Very truly yours,



John J. Pringle, Jr.

JJP/cr

cc: Gene Coker, Esquire

Enclosures

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**BEFORE THE
PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA**

In re: Complaint of AT&T Communications)
Of the Southern States, LLC for Suspension)
And Cancellation of BellSouth)
Telecommunications, Inc.'s CPN Tariff)
No. 2004-410 Filed October 13, 2004)
_____)

Docket No. _____

**COMPLAINT OF AT&T COMMUNICATIONS
OF THE SOUTHERN STATES, LLC
REQUESTING SUSPENSION OF AND CANCELLATION
OF THE CHANGE IN CPN FLOOR PERCENTAGE, TARIFF NO. 2004-410
FILED BY BELL SOUTH TELECOMMUNICATIONS INC.**

AT&T Communications of the Southern States, LLC ("AT&T" or "Complainant"), pursuant to S.C. Code Annotated Section 58-9-1080, and Rule 103-835 of the South Carolina Public Service Commission ("Commission") Rules of Practice and Procedure, hereby files this Complaint requesting that the South Carolina Public Service Commission ("Commission") stay the effectiveness, otherwise suspend, and ultimately cancel the tariff filing of BellSouth Telecommunications, Inc ("BellSouth") entitled Change in CPN Floor Percentage, Tariff No. 2004-410. In support of this Complaint AT&T states:

1. The name and address of the Complainant are:

AT&T Communications of the Southern States, LLC
1230 Peachtree Street
4th Floor
Atlanta, Georgia 30309

2. All pleadings, documents, correspondence, notices, staff recommendations and orders filed, served or issued in this docket should be served on the following on behalf of Complainant:

John J. Pringle, Jr.
Ellis, Lawhorne & Sims, P.A.
PO Box 2285
Columbia, SC 29202

Phone: (803) 343-1270

And

Gene V. Coker
1230 Peachtree Street NE
4th Floor
Atlanta, Georgia 30309
404-810-8700

3. BellSouth is an incumbent local exchange company (ILEC) providing telecommunications services in South Carolina. BellSouth's official business address is:

BellSouth Telecommunications, Inc.
675 W. Peachtree Street, NE
Atlanta, Georgia 30375

FACTUAL BACKGROUND

4. Complainant is certificated by the Public Service Commission of South Carolina as an Interexchange Carrier (IXC) and a Competitive Local Exchange Company (CLEC).

5. BellSouth bills AT&T and other IXCs interstate and intrastate access charges based upon call data sent by the IXCs to BellSouth. This call data is commonly referred to as calling party number ("CPN"). When there is insufficient call detail to allow BellSouth to determine the origin of the calling party, BellSouth bills interstate and intrastate access usage based upon IXC-provided "percentage interstate usage" (PIU) factors. Recognizing that there may be a percentage of usage where it is not possible for IXCs to know, and therefore to send to BellSouth, the needed originating information, BellSouth has limited or placed a "floor" on the amount of toll traffic upon which it will bill access charges based upon PIU factors. See BellSouth Access Services Tariff, E2.3.14 A.1.a. Any access usage greater than the established

“floor” is automatically billed at the higher intrastate access rates regardless of the jurisdictional nature of the calls.

6. Prior to October 13, 2004 the “floor” established by BellSouth was 19.22%. On October 13, 2004, BellSouth filed revisions to its South Carolina Access Services Tariff, Tariff No. 2004-410, to lower the established “floor” from 19.22% to 7%, a reduction of more than 63%. This change, reduces the “floor,” or amount of traffic which an IXC can send to BellSouth for termination without calling party number (CPN) information, and still have such traffic terminated at interstate access rates according to PIU factors. In other words, if an IXC sends more than seven percent (7%) of its total traffic to BellSouth without CPN information, BellSouth automatically “re-classifies” all such traffic above the 7% “floor” as intrastate traffic, even if the traffic is in fact interstate. The tariff reducing the floor was presumed valid by the Commission October 27, 2004. A copy of the tariff is attached hereto as Exhibit 1.

7. It is AT&T’s understanding that the new 7% “floor” was developed based on a study by Agilent Technologies that indentified the traffic for which IXCs, on average, cannot pass CPN due solely to technical limitations. The previous 19.22% “floor” was based on an overall average of actual CPN received from all IXCs in all states in the BellSouth region. The rationale for the new “floor” represents a material difference in methodologies that must be investigated. There are a number of circumstances in which AT&T is not responsible for the lack of CPN on calls terminated by BellSouth. AT&T has no control over the lack of CPN when this information is not transmitted by the originating local exchange carrier. This occurs, for example, when business customers use older customer premise equipment (“CPE”) that does not provide CPN. The older multi-line business customer premises equipment is unable to record CPN mechanically, so this information is

not provided to AT&T. AT&T and other IXC's should not be penalized and forced to bear the burden of paying higher intrastate access rates on calls that are interstate. If BellSouth is concerned about access related arbitrage opportunities, it can lower its intrastate access rates to the levels of its federal tariffs.

VIOLATIONS OF LAW

8. The Public Service of South Carolina does not have authority to allow BellSouth to re-rate interstate traffic; rather, the Commission's jurisdiction is limited to that which is truly intrastate traffic in nature. Section 58-9-50 of the South Carolina Code provides that "No provision of Articles 1 through 13 of this chapter shall apply or be construed to apply to commerce among the several states." Therefore, unless BellSouth can demonstrate that traffic lacking CPN information is intrastate traffic, neither BellSouth nor this Commission may impose intrastate access rates upon what is otherwise within the sole jurisdiction of the FCC.

9. The lack of CPN information, in and of itself, is not determinative of whether a call is an interstate or intrastate call. Hence, the trigger mechanism (i.e., the "floor") BellSouth uses to determine jurisdiction is arbitrary and capricious. Therefore, the automatic and arbitrary reclassification or re-rating of switched access usage that is or may be interstate in nature is unjust and unreasonable in violation of South Carolina Code Section 58-9-210.

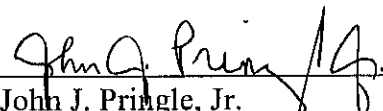
10. BellSouth has not established that it is charging its long distance affiliates identical rates for such usage or imputing these charges as a cost in the establishment of rates for its own long distance services. Thus, the regulations set forth in the revised tariff requiring the application of intrastate rates are potentially discriminatory in violation of South Carolina Code Section 58-9-250, in that application of the tariff subjects AT&T to an "unreasonable prejudice or disadvantage."

11. AT&T has had a billing agreement in place with BellSouth and other Regional Bell Operating Companies ("RBOCs") that governs PIU determinations and audits. This agreement is consistent with BellSouth's previous tariff provisions and it is sufficient to protect BellSouth's interests. To the extent that BellSouth needs further protection from other carriers that do not have agreements in place, and to the extent the Commission deems the tariff to be appropriate, BellSouth should be limited to applying the new tariff only to those other carriers, while creating an exception for those carriers that have agreements.

WHEREFORE, AT&T respectfully requests that the Commission:

- A. Suspend the effectiveness of BellSouth's Tariff No. 2004-410;
- B. Schedule and conduct a formal administrative hearing to address disputed issues of fact and law regarding the Tariff pursuant to S.C. Code Annotated Section 58-9-1080;
- C. Enter a final order denying and canceling Tariff 2004-410; and
- D. Grant such further relief as the Commission deems just and proper.

Respectfully submitted this 12th day of November 2004.



John J. Pringle, Jr.
Ellis, Lawhorne & Sims, P.A.
PO Box 2285
Columbia, SC 29202
Phone: (803) 343-1270

Gene V. Coker
1230 Peachtree Street NE
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CERTIFICATE OF SERVICE

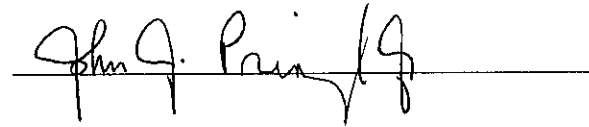
I HEREBY CERTIFY that a copy of the foregoing Complaint was furnished by U. S. Mail to the following this 12th day of November, 2004:

Patrick Turner, Esquire

BellSouth Telecommunications, Inc.

PO Box 752

Columbia SC 29202-0752

A handwritten signature in black ink, appearing to read "John G. Pringle", is written over a horizontal line.